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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,124	11/07/2001	K. Umit Yuksel	1577-164	4646

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EXAMINER

WEBMAN, EDWARD J

ART UNIT

PAPER NUMBER

1617

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/986124

Applicant(s)

YUKSEL

Examiner

W. B. M. M.

Group Art Unit

1617

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 7/7/84
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 30-52 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 30-52 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 30, 38 are rejected under 35 U.S.C. 102(e) as being anticipated by Nussinovitch.

Nussinovitch teaches biodegradable foams (abstract) by combining a solution of alginate calcium carbonate and a solution of citric acid (example 1 column 5).

Gelatin is specified as equivalent to alginate (column 3 line 47). Medicinal sponges are disclosed (column 1 line 14). Generation of carbon dioxide is specified (example 1 column 5).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nussinovitch in view of Wang and Fattman et al.

~~Nussinovitch in view of Wang and Fattman et al.~~

Nussinovitch is described above.

Wang teaches biodegradable foams comprising protein (abstract). Albumin and gelatin are disclosed as equivalent (column 3 line 50). Bicarbonate and citric acid are disclosed for generating carbon dioxide (column 5 lines 39-40).

Crosslinking with glutaraldehyde to provide rigidity is disclosed (column 6 line 61-column 7 line 15), reinforcement with natural fibers is specified (column 6 lines 29-30).

Fattman teach a hydrocolloid foam (title). Ammonium bicarbonate is disclosed as equivalent to calcium carbonate as a blowing agent (column 3 lines 36-48).

It would have been obvious to one of ordinary skill to add a glutaraldehyde as a crosslinker to the citric acid solution of Nussinovitch to achieve the beneficial effect of achieving rigidity to the foam and to further add a natural fiber to provide reinforcement to the gelatin solution of Nussinovitch to achieve the beneficial effect of reinforcement in view of Wang. As to the claimed ammonium bicarbonate, Fattman et al teach it as equivalent to the calcium carbonate of Nussinovitch as a blowing agent. As to the claimed sterilization, such would be an obvious expedient for the medical sponges of Nussinovitch. As to the claimed kit, the two solutions of Nussinovitch constitute such.

As to the now claimed human or bovine album on, such would be an obvious expedient to obviate an immune response when the obvious composition is used as a diaper or hygienic pad (column 1 line 11 in Nussinovitch).

Applicants argue that Nussinovitch teaches that solid material is brought into contact with the citric acid solution in example 1 column 5). However, applicants' claim ~~can gauge~~ ^{language} does not preclude such a use. Further, even if applicants' claimed a mixing of solutions, such language in a composition claim would merely be an intended use.

ON the other hand, applicants may wish to ^{purpose} ~~purpose~~ a product – by- process claim to the foam in another application.

The declaration filed with applicants' response of 7/7/04 is not deemed to overcome the rejection because the proffered notebook pages do not disclose the claimed acid ⁺ titrant. Further, applicants purport a date of reduction to practice prior to 6/18/97. However, it appears that applicants must swear to a date prior to 1/17/94 (see filing date of WO 94/17137 the publication number of PCT/EP 94/00107 cited as a parent of the Nussinovitch US Patent. Example 1 on page 5 Bridging to page 6 in '137 is the same as that in the US Patent.)

Claims 41-52 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for ~~on pages 3-7 applicants disclose~~ a first solution of a ^e proteinaceous material and a blowing agent and a second solution comprising ^{di- or} ~~DI-OR~~ polyaldehydes and a titrant, ^(see pages 3-7 in spec) does not reasonably provide enablement for the blowing agent in the second solution and the titrant in the first solution. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. Nowhere in the disclosure do applicants disclose alternative solution to ^{s those} ~~phase~~ cited above.

No claims allowed.

The US Patents recited on PTO form 1449 filed 7/7/04 are not of record.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Webman whose telephone number is (571) 272-0633. The examiner can normally be reached on Monday to Friday 9 Am 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Padmanabhan can be reached on (571) 272-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Webman/LR
October 4, 2004

EDWARD J. WEBMAN
PATENT EXAMINER
GROUP 1500
009/42049